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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
CHICAGO DIVISION**

YE, Liwei A77 644 460,
Plaintiff.

)

V.

08cv1594
JUDGE MORAN
MAG. JUDGE BROWN

MICHAEL MUKASEY, Attorney
General of the United States;
PATRICK FITZGERALD, U.S. Attorney
The U.S. Department of Justice;
MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;
ROBERT L. BLACKWOOD, Chicago District
Office Director, U.S. Citizenship and
Immigration Services;
Dr. EMILIO T. GONZALEZ, Director,
U.S. Citizenship and Immigration Services
Defendants

))))))))))

FILED
JUN 18 2008
MAR 18, 2008
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

COMPLAINT FOR WRIT OF MANDAMUS

To the Honorable Judges of Said Court:

Plaintiff, Liwei Ye, through undersigned counsel, alleges as follows:

INTRODUCTION

1. This is a civil action brought pursuant to 28 U.S.C. §1331, and 28 U.S.C. §1361, to redress the deprivation of rights, privileges and immunities secured to Plaintiffs to compel Defendants to perform a duty Defendants owe to Plaintiffs. Jurisdiction is also conferred by 5 U.S.C. §701.
2. This action is brought to compel Defendants and those acting under them to take action on the U.S. Citizenship Application, form N-400, in order for Plaintiff to become a citizen of the United States.
3. Plaintiff is eligible to have his Application adjudicated.
4. Defendants, the Department of Homeland Security and U.S. Citizenship and Immigration Services, are charged by law with the statutory obligation to adjudicate these U.S. Citizenship Applications, Form N-400.

5. Venue is proper under 28 USC §1391(c)(2) because a substantial part of the events or omissions occurred in this district.

FACTS

6. Plaintiff, a citizen of China, entered the United States in June 1993 on an F-1 Student Visa. After graduating in 1995, Mr. Ye applied for and was granted H-1 work visa and was granted permanent resident status on July 16, 2001.
7. In June 2004 Plaintiff applied for U.S. Citizenship by submitting Form N-400. See Exhibit 1 (a copy of Mr. Ye's N-400 application).
8. On October 21, 2004 Plaintiff appeared and was interviewed by Officer Litwin of the U.S. Citizenship and Immigration Services, in Chicago, Illinois, pursuant to the naturalization process. See Exhibit 2 (Naturalization Interview Results).
9. At the end of the interview, Officer Weir informed Mr. Liu that he had passed the tests of English and U.S. History and Government, and that a written decision regarding his application would be forthcoming. *Id.*
10. It has now been over three years since Plaintiff was interviewed by Officer Litwin, and his Citizenship Application, Form N-400, has now been pending since June 28, 2004. Plaintiff has made several requests to determine the status of his application and the delay associated with his approval, but has been told that his application is still pending a background check. (See Exhibits 3-5)

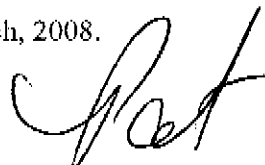
CLAIMS

1. Defendants have willfully and unreasonably delayed in, and have refused to, adjudicate Plaintiff's Citizenship Application, Form N-400, thereby depriving the Plaintiff of the benefit of becoming a Citizen of the United States, and the peace of mind to which he is entitled;
2. Defendants owe Plaintiff a duty to adjudicate his Application, and have unreasonably failed to perform that duty;
3. Plaintiff has exhausted any administrative remedies that may exist.

WHEREFORE, Plaintiffs prays that the Court:

1. Compel Defendants and those acting under them to perform their duty to adjudicate Plaintiff's Application;
2. Grant such other and further relief as this Court deems proper under the circumstances; and
3. Grant Attorney's fees and costs of Court to Plaintiffs under the Equal Access to Justice Act.

Respectfully submitted this 13th day of March, 2008.



Patrick A. Metcalf
Attorney for Petitioner

CERTIFICATE OF SERVICE

I certify that on March 13th, 2008, one copy of Petitioner's COMPLAINT FOR WRIT OF MANDAMUS was served by certified mail to:

Michael Mukasey
Attorney General of the United States
U.S. Dept. of Justice – Office of Immigration Litigation
P.O. Box 878, Ben Franklin Station
Washington D.C. 20044



Patrick A. Metcalf
Attorney for the Petitioner
Metcalf & Associates, P.C.
525 W. Higgins Rd., Suite 101
Hoffman Estates, IL 60169

CERTIFICATE OF SERVICE

I certify that on March 13th, 2008, one copy of Petitioner's COMPLAINT FOR WRIT OF MANDAMUS was served by certified mail to:

Dr. Emilio T. Gonzalez, Director
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Washington D.C. 20528



Patrick A. Metcalf
Attorney for the Petitioner
Metcalf & Associates, P.C.
525 W. Higgins Rd., Suite 101
Hoffman Estates, IL 60169

CERTIFICATE OF SERVICE

I certify that on March 13th, 2008, one copy of Petitioner's COMPLAINT FOR WRIT OF MANDAMUS was served by certified mail to:

Pat Fitzgerald
U.S. Attorney's Office
219 S. Dearborn St.
Chicago, IL 60604

A handwritten signature in black ink, appearing to read 'Pat', written over a horizontal line.

Patrick A. Metcalf
Attorney for the Petitioner
Metcalf & Associates, P.C.
525 W. Higgins Rd., Suite 101
Hoffman Estates, IL 60169

CERTIFICATE OF SERVICE

I certify that on March 13th, 2008, one copy of Petitioner's COMPLAINT FOR WRIT OF MANDAMUS was served by certified mail to:

MICHAEL CHERTOFF, Secretary
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
Washington, D.C. 20528



Patrick A. Metcalf
Attorney for the Petitioner
Metcalf & Associates, P.C.
525 W. Higgins Rd., Suite 101
Hoffman Estates, IL 60169

CERTIFICATE OF SERVICE

I certify that on March 13th, 2008, one copy of Petitioner's COMPLAINT FOR WRIT OF MANDAMUS was served by certified mail to:

Robert L. Blackwood
Chicago district Office Director
U.S. Citizenship and Immigration Services
101 W. Congress Parkway
Chicago, IL 60605

A handwritten signature in cursive script, appearing to read "Pat", is written over a horizontal line.

Patrick A. Metcalf
Attorney for the Petitioner
Metcalf & Associates, P.C.
525 W. Higgins Rd., Suite 101
Hoffman Estates, IL 60169

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Immigration and Naturalization Service

Notice of Action

THE UNITED STATES OF AMERICA

Receipt			NOTICE DATE July 02, 2004
CASE TYPE N400 Application For Naturalization			INS AN A 077 644 460
APPLICATION NUMBER LIN*000678916	RECEIVED DATE June 28, 2004	PRIORITY DATE June 28, 2004	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS YE LIWEI 416 W TORREY PINES WAY VERNON HILLS IL 60061		PAYMENT INFORMATION: Single Application Fee: \$390.00 Total Amount Received: \$390.00 Total Balance Due: \$0.00	

The above application has been received by our office and is in process. Our records indicate your personal information is as follows:

Date of Birth: December 02, 1963
Address Where You Live: 416 W TORREY PINES WAY
VERNON HILLS IL 60061

Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.

You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 540 days of this notice.

If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.

If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.

If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.

INS Office Address:
US IMMIGRATION AND NATURALIZATION SERVICE
PO BOX 87400
LINCOLN NE 68501-

INS Customer Service Number:
(800) 375-5283

APPLICANT COPY

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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services

Naturalization Interview ResultsA#: 77-644-460

On 10/21, 2004, you were interviewed by USCIS Officer Litwin.

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the test of U.S. history and government and the English language requirement was waived.
- ☐ The Service has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak / _____ read / _____ write English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on the Form N-14.
- ☒ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability / _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this N-400. USCIS will send you a written decision about your application.
- A) _____ Congratulations! Your application has been recommended for approval. At this time, it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.
- B) ☒ A decision cannot yet be made about your application.

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, A-number, and a copy of this paper.
- ☒ Go to any oath ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or oath ceremony. Include a copy of this paper and a copy of the scheduling notice.

N-652 (Rev.)

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U.S. Department of Homeland Security
USCIS
10 West Jackson Boulevard
Chicago, IL 60604



**U.S. Citizenship
and Immigration
Services**

Monday, November 14, 2005

LIWEI YE
416 W TORREY PINES WAY
VERNON HILLS IL 60061

Dear LIWEI YE:

On 08/22/2005 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	06/28/2004
Receipt #:	
Beneficiary (if you filed for someone else):	YE, LIWEI
Your USCIS Account Number (A-number):	A077644460
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. We are currently awaiting the results of required security checks on this case. These background checks are required of all who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the security checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

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www.uscis.gov

U.S. Department of Homeland Security
USCIS
10 West Jackson Boulevard
Chicago, IL 60604



U.S. Citizenship
and Immigration
Services

Wednesday, December 14, 2005

YE LIWEI
416 WEST TORREY PINES WAY
VERNON HILLS IL 60061

Dear YE LIWEI:

On 09/29/2005 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	06/28/2004
Receipt #:	LIN*000678916
Beneficiary (if you filed for someone else):	LIWEI, YE
Your USCIS Account Number (A-number):	A077644460
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. We are currently awaiting the results of required security checks on this case. These background checks are required of all who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the security checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

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U.S. Citizenship and Immigration Services



DEPARTMENT OF HOMELAND SECURITY
U. S. Citizenship and Immigration Services
Chicago District Office

STATUS INQUIRY FORM

DATE: _____

CORRESPONDENCE DETAILS

On Behalf of (Applicant):

A Number: A* 077644460Name: YE Liwei
Last First MiddleMailing Address: 416 West Torrey Pines Way
Apt # 8City: Vernon Hills State: IL Zip Code: 60061Daytime Phone Number: 847-219-8846Country of Birth: China Date of Birth: 12/1963

☐ Check box if author is same as applicant
(DO NOT complete the following if box is checked)

Type of inquiry:

☐ Applicant ☒ Attorney ☐ CBO

Name: Metcalf Patrick A.
Last First MiddleFirm / Organization: Metcalf & Associates P.C.Mailing Address: 715 W. Main Street

Suite # or Apt. #: _____

City: West Dundee State: IL Zip Code: 60118Phone No.: 847-428-1762CORRESPONDENCE INFORMATIONClass: GENERAL Request Type (check all that apply): ☐ Address Change ☐ General ☐ Received DocumentsType of Application (check one): ☐ Adjustment of Status ☒ Citizenship

Form Filed:

☐ I-130 ☐ I-485 ☐ I-751 ☐ I-765 ☐ I-824
☐ N-336 ☐ N-400 ☐ N-565 ☐ N-600 ☐ N-643 ☐ Other: _____

Request reschedule for (check one): ☐ Interview ☐ Oath ☐ Fingerprinting

Additional Comments: Mr. Liwei YE filed N-400 on 06/28/2004. He passed the English test and interview. For more than 3 years he has not received the notice to take oath. He did several times inquiries. Please advise the situation about this case.

Applicant Signature: Liwei YE Date: 11-09-2007

MUST INCLUDE A PRIVACY RELEASE SIGNATURE FROM THE APPLICANT:

MAIL INQUIRIES TO: USCIS, CORRESPONDENCE UNIT, P.O. BOX 3616, CHICAGO, IL 60690
FAX INQUIRIES TO: (312) 385-3407

Revised 032206yv